

**IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MISSOURI,
SOUTHERN DIVISION**

In re:)
)
417 RENTALS, LLC,)
)
Debtor.) Case No. 17-60935

**MOTION OF LEGACY BANK AND TRUST FOR RELIEF FROM AUTOMATIC STAY
AS TO REAL PROPERTY LOCATED AT 1507 E. BLAINE STREET, 520 S. SCENIC
AVENUE AND 819 N. FOREST AVENUE, IN SPRINGFIELD, MISSOURI
AND FOR ADEQUATE PROTECTION**

COMES NOW Movant, Legacy Bank and Trust, by and through its undersigned counsel, and for its Motion for Relief from Stay and for Adequate Protection, states to the Court as follows:

1. On August 25, 2017, Debtor filed a voluntary Chapter 11 bankruptcy Petition and is now operating its business as a debtor-in-possession.
2. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 1334 and 157.
3. Movant brings this action under 11 U.S.C. §362 and Rule 4001 of the Bankruptcy Rules.¹
4. Venue is proper under 28 U.S.C. §§ 1408 and 1409.
5. This is a core proceeding pursuant to 28 U.S.C. §157(b).
6. Debtor is indebted to Legacy Bank and Trust under four (4) separate loans, and specifically as follows:

- a. A Promissory Note dated March 2, 2012 in the original principal amount of \$470,000.00, as modified by Modification Agreement dated March 2, 2017 (“Loan

¹ All rights under 11 U.S.C. §362(e) are reserved.

1644”), payment of which is secured by a Deed of Trust dated March 2, 2012 granted by Debtor covering real property in Greene County, Missouri and located generally at 2721 W. Lincoln, Springfield, Missouri; 816 N. National, Springfield, Missouri; 826 W. Weaver, Springfield, Missouri; 2615 W. Page, Springfield, Missouri; 221 S. Broadway, Springfield, Missouri; 141 S. Main, Springfield, Missouri; 440 W. US Hwy 60, Republic, Missouri; 1651 N. Engle, Springfield, Missouri; 2954 W. Water, Springfield, Missouri; and 1026 N. West, Springfield, Missouri. True and accurate copies of the Promissory Note, as modified, and Deed of Trust are attached hereto as **Exhibits “A” and “B”** and incorporated by reference herein. As of August 25, 2017, after all applicable credits, Loan 1644 had an outstanding balance of \$424,528.86, consisting of \$421,347.73 in principal, \$1,603.79 in interest and \$1,577.34 in late charges.

b. A Promissory Note dated August 10, 2012 in the original principal amount of \$530,000.00, as modified by Modification Agreement dated August 10, 2017 (“Loan 3477”), payment of which is secured by a Deed of Trust granted by Debtor dated August 10, 2012 covering real property in Greene County, Missouri and located generally at 2134 N. Kansas Expressway, Springfield, Missouri; 2021-2025 N. Pierce, Springfield, Missouri; 3225 W. Latoka, Springfield, Missouri; 1506 E. Lindberg, Springfield, Missouri; 1312-1314 S. Brite, Springfield, Missouri; 918 N. Brown, Springfield, Missouri; 2541 E. Bennett, Springfield, Missouri; 1121 N. Park Avenue, Springfield, Missouri; 520 S. Scenic Avenue, Springfield, Missouri; and 819 N. Forest Avenue, Springfield, Missouri. Copies of said Promissory Note, as modified, and Deed of Trust, are attached hereto as **Exhibits “C” and “D”** respectively, and incorporated by reference herein. As of August 25, 2017, Loan 3477 had an outstanding balance of \$487,399.50,

consisting of \$484,197.07 in principal, \$1,237.61 in interest and \$1,964.82 in late charges.

c. A Promissory Note dated April 18, 2013 in the original principal amount of \$360,000.00 ("Loan 3752"), payment of which is secured by a Deed of Trust granted by Debtor dated April 18, 2013 covering real property in Greene County, Missouri and located generally at 2731 W. College, Springfield, Missouri; 1507 E. Blaine, Springfield, Missouri; 729 W. Chicago, Springfield, Missouri; 611 N. Warren Avenue, Springfield, Missouri; 939 S. Fort, Springfield, Missouri; 1074 S. New, Springfield, Missouri; 2321 N. Kellett, Springfield, Missouri; 1932 W. Chestnut, Springfield, Missouri; and 3242 W. Page, Springfield, Missouri. Copies of said Promissory Note and Deed of Trust are attached hereto as **Exhibits "E" and "F"** respectively, and incorporated by reference herein. As of August 25, 2017, Loan 3752 had an outstanding balance of \$335,027.23, consisting of \$333,071.68 in principal, \$1,712.21 in interest and \$243.44 in late charges.

d. A Promissory Note dated January 18, 2013 in the original principal amount of \$250,000.00 as modified by Modification Agreement dated May 13, 2017 ("Loan 3612"), payment of which is secured by a deposit account held by Legacy Bank and Trust and owned by Christopher E. Gatley (the "Deposit Account Assignment"). True and accurate copies of said Promissory Note, as modified, and Assignment of Deposit Account are attached hereto as **Exhibits "G" and "H"** respectively, and incorporated by reference herein.

Each of the loans referenced above may be collectively referred to herein as the "Loans" and each Deed of Trust referenced above may be referred to herein collectively as the "Deeds of Trust". Notwithstanding references to specific collateral securing payment of each loan

referenced above, the referenced Deeds of Trust and the Deposit Account Assignment secure payment of all indebtedness owed by the Debtor to Movant.

7. As of August 25, 2017, all of the Loans were in default.

8. In August 16, 2017, Legacy Bank and Trust was required to pay delinquent real property taxes on property encumbered by the Deeds of Trust in the amount of \$44,069.20 as the Debtor had failed and refused to pay same thus exposing the properties to a Collector's tax sale.

9. On or about September 13, 2011, Movant received notice that property casualty insurance coverage required to be maintained by the Debtor on properties located at 819 N. Forest Avenue, Springfield, Missouri, 520 S. Scenic Avenue, Springfield, Missouri and 1507 E. Blaine Street, Springfield, Missouri was being cancelled due to non-payment of premium effective September 20, 2017. Legacy Bank and Trust has force-placed casualty insurance coverage on said properties, all of which secure payment of the Loans. As of the filing of this Motion, Movant has received no information indicating that the Debtor has re-established casualty insurance coverage on said properties.

10. Cause exists under 11 U.S.C. §362(d)(1) for terminating or modifying the automatic stay to allow Legacy Bank and Trust to enforce its rights under applicable non-bankruptcy law, including proceeding with a foreclosure of the real property located at 819 N. Forest Avenue, Springfield, Missouri, 520 S. Scenic Avenue, Springfield, Missouri and 1507 E. Blaine Street, Springfield, Missouri. Upon information and belief, there is little to no equity in these properties. Further, some or all of same are occupied by tenants and said properties continue to depreciate to the detriment and irreparable harm of Legacy Bank and Trust. Additionally, any rents being collected from said properties are not being turned over to Legacy Bank and Trust notwithstanding that the right to receive such rents was assigned to Legacy Bank

and Trust by the Deeds of Trust. Accordingly, Legacy Bank and Trust's interest in said properties are not adequately protected.

11. In addition to the three properties referenced in paragraph 10 above, Debtor continues to use all other properties encumbered by the Deeds of Trust securing Debtor's indebtedness to Legacy Bank and Trust through renting same to tenants, which use results in the continued depreciation of said properties. Debtor is also receiving rental income from most, if not all, of the properties encumbered by the Deeds of Trust securing such indebtedness and rents being collected are not being turned over to Legacy Bank and Trust. Accordingly, Legacy Bank and Trust's interest in said properties are not adequately protected. As such, the payment of adequate protection by the Debtor to Legacy Bank and Trust is necessary in order to maintain appropriate equity in the collateral so that same does not decrease to the prejudice and irreparable harm of Legacy Bank and Trust.


12. Legacy Bank currently does not have, and has not been offered, adequate protection for its interest in the real property secured by the Deeds of Trust. In the absence of Legacy Bank and Trust receiving adequate protection payments, it will suffer detriment and irreparable harm.

13. Legacy Bank and Trust is entitled to adequate protection with respect to the collateral securing payment of the indebtedness owed by Debtor, and an order of the Court conditioning Debtor's continued use of the real property subject to the Deeds of Trust upon Debtor furnishing adequate protection to Legacy Bank and Trust.

WHEREFORE, Legacy Bank and Trust prays for an Order lifting the automatic stay of 11 U.S.C. §362 as to the properties located at 819 N. Forest Avenue, Springfield, Missouri, 520 S. Scenic Avenue, Springfield, Missouri and 1507 E. Blaine Street, Springfield, Missouri,

allowing it to foreclose upon said properties, and waiving of the requirements of Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure, or in the alternative, for an Order requiring the Debtor to pay Legacy Bank and Trust adequate protection with respect to same. Additionally, Legacy Bank and Trust prays for an Order conditioning Debtor's continued use of the real property encumbered by the Deeds of Trust on Debtor making adequate protection payments to Legacy Bank and Trust, and for such other and further Orders and relief as the Court deems just in the premises.

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CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of October, 2017, I electronically filed the foregoing with the Clerk of Court using the Court's electronic filing system which will send notification of such filing to the following:

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